

THE STATE OF TEXAS §
 §
COUNTY OF HARRIS §

C75190
2013-0131

AGREEMENT FOR UNPAID PARKING CITATION COLLECTION SERVICES

I. PARTIES

A. Address

THIS AGREEMENT FOR UNPAID PARKING CITATION COLLECTION SERVICES ("Agreement") for the City of Houston Department of Administration and Regulatory Affairs ("ARA") is made by and among the **CITY OF HOUSTON, TEXAS** ("City"), a home rule city of the State of Texas principally situated in Harris County, acting by and through its governing body, the City Council and 1) **PROFESSIONAL ACCOUNT MANAGEMENT, LLC, A DUNCAN SOLUTIONS, INC. COMPANY**, a Wisconsin limited liability company doing business in Texas ("Duncan"), 2) **GILA LLC D/B/A MUNICIPAL SERVICES BUREAU** ("MSB"), a limited liability company doing business in Texas and 3) **GC SERVICES LIMITED PARTNERSHIP** ("GC Services"), a limited partnership doing business in Texas. Duncan, MSB and GC Services may be individually referred to herein as "Contractor" or collectively as "Contractors".

RECITALS

WHEREAS, the City has unpaid parking tickets owed to the ARA in its Accounts; and

WHEREAS, the City wants to establish a collection program with maximum flexibility in order to optimize its collections (the "Parking Collection Program"); and

WHEREAS, the ARA Director and its employees will implement the Parking Collection Program in accordance with the Texas Code of Criminal Procedure, Article 103.0031(c) by utilizing multiple collection processes and assigning and reassigning collection of certain unpaid Accounts to multiple collection Contractors based on the City's needs and the Contractors' success.

NOW THEREFORE, the Parties agree as follows:

A. Address

The initial addresses of the parties, which one party may change by giving written notice to the other party, are as follows:

City

Administration & Regulatory Affairs Department
City of Houston
P. O. Box 1562
Houston, Texas 77251
Attn: ARA Director or Designee

with copies to:

Finance Department
City of Houston
611 Walker St, Tenth Floor
Houston, TX 77002
Attn: Finance Director or Designee

and

Legal Department
City of Houston
900 Bagby St, Fourth Floor
Houston, TX 77002
Attn: City Attorney or Designee

Contractors

Professional Account Management, LLC
633 W. Wisconsin, Ave., Suite 1600
Milwaukee, WI 53203-1920
Attention: Eric Hunn
President

Gila LLC d/b/a Municipal Services Bureau (MSB)
8325 Tuscany Way - Building 4
Austin, TX 78754
Attention: Bruce Cummings
Chief Executive Officer

GC SERVICES Limited Partnership
6330 Gulfport
Houston, TX 77081
Attention: Linda M. Spellicy
Senior Vice President

B. Table of Contents

TABLE OF CONTENTS

Page No.

I. PARTIES.....	1
A. Address.....	1
B. Table of Contents	3
C. Parts Incorporated.....	6
D. Controlling Parts.....	6
E. Signatures	7
II. DEFINITIONS	9
III. DUTIES OF CONTRACTOR.....	14
A. Scope of Services	14
B. Competitive Challenge Model.....	15
C. Coordinate Performance	15
D. Reports.....	15
E. RELEASE.....	16
F. INDEMNIFICATION	16
G. RELEASE AND INDEMNIFICATION--(PATENT, COPYRIGHT, TRADEMARK AND TRADE SECRET INFRINGEMENT).....	18
H. Subcontractor's Indemnification.....	19
I. Indemnification Procedures.....	20
J. Insurance	21
K. Warranties	24
L. Licenses and Permits	25
M. Compliance with Laws	25
N. Compliance with Equal Opportunity Ordinance.....	25
O. MWBE Compliance	25
P. Drug Abuse Detection and Deterrence	26
Q. Conveyance of Intellectual Property Developed in Connection with this Agreement by Contractor to City.....	27
R. Time of Performance	28
S. Pay or Play Program	28
T. Liquidated Damages for Failure to Meet Performance Scorecard	28
IV. DUTIES OF CITY.....	29
A. Payment Terms	29
B. Invoicing.....	30
C. Taxes	30
D. Allocation of Funds/ Limitation of City's Duty to Pay	31
V. TERM AND TERMINATION	31
A. Agreement Term	31

B.	Termination for Convenience by the City	32
C.	Termination for Cause by City	33
D.	Effects of Termination	34
VI.	MISCELLANEOUS	35
A.	Independent Contractor	35
B.	Severability	35
C.	Entire Agreement	35
D.	Written Amendment	35
E.	Applicable Laws	36
F.	Notices	36
G.	Caption	36
H.	Non-Waiver	36
I.	Inspections and Audits	37
J.	Enforcement	37
K.	Ambiguities	37
L.	Survival	37
M.	Publicity	38
N.	Parties In Interest	38
O.	Successors and Assigns	38
P.	Business Structure and Assignments	38
Q.	Remedies Cumulative	39
R.	Force Majeure	39
S.	Waiver, Estoppel and Laches	40
T.	Contractors' Debt	40
U.	Addition of Parties to Agreement	41
V.	Addition of Revenue Streams and Departments to Agreement	41
W.	Contractor's Proprietary Collections System	41

EXHIBITS

- A. SCOPE OF SERVICES
- B. EQUAL EMPLOYMENT OPPORTUNITY
- C. MWBE SUBCONTRACT TERMS
- D. DRUG POLICY COMPLIANCE AGREEMENT
- E. CERTIFICATION OF NO SAFETY IMPACT POSITIONS
- F. DRUG POLICY COMPLIANCE DECLARATION
- G. SAMPLE ENGAGEMENT LETTER with Attachment 1– Terms of Engagement Letter

C. Parts Incorporated

The above-described exhibits are incorporated into this Agreement.

D. Controlling Parts

If a conflict among the sections of the Agreement and any of the Exhibits arises, the sections of the Agreement control over the Exhibits.

E. Signatures

[By signature of the Mayor and countersignature by the City Controller, and by approval of the ARA Director, additional contractors may be added to this Agreement by execution of additional signature pages similar to this page ("Additional Contractors"). It is not necessary for the existing Contractors to approve such additions.]

This Agreement is binding on only those Parties who have signed this Agreement as of the First Countersignature Date ("the Original Signatories"). Execution by the other signatories named on this page is not necessary to make this Agreement binding upon the Original Signatories. The other named signatories may become parties to this Agreement in the same manner as Additional Contractors mentioned in the first paragraph of this Article I. E. of this Agreement.]

IN WITNESS WHEREOF, the Original Signatories, through their duly authorized officers, have executed this Agreement in multiple counterparts, each of equal force and effect, effective as of the Effective Date.

ATTEST/SEAL (if a corporation):

WITNESS (if not a corporation):

By:  Jeffrey Fischer

Name: Jeffrey Fischer

Title: Secretary

ATTEST/SEAL:

By: _____

Name:

Title:

ATTEST/SEAL:

By: _____

Name:

Title:

**PROFESSIONAL ACCOUNT
MANAGEMENT, LLC**

By: Norman Brooks

Name: Norman Brooks

Title: Chief Financial Officer

Tax I.D. No. 39-1956409

**GILA LLC D/B/A MUNICIPAL
SERVICES BUREAU (MSB)**

By: _____

Name:

Title:

Tax I.D. No. _____

**GC SERVICES LIMITED
PARTNERSHIP**

By: _____

Name:

Title:

Tax I.D. No. _____

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WITNESS (if not a corporation):

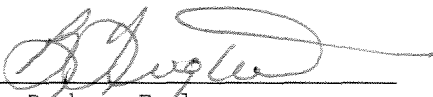
**PROFESSIONAL ACCOUNT
MANAGEMENT, LLC**

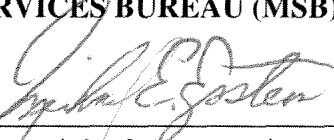
By: _____
Name:
Title:

By: _____
Name:
Title:
Tax I.D. No. _____

ATTEST/SEAL:

**GILA LLC D/B/A MUNICIPAL
SERVICES BUREAU (MSB)**

By: 
Name: Barbara Fugler
Title: V.P. Finance/Controller

By: 
Name: Michael E. Epstein
Title: CFO
Tax I.D. No. 74-2605908

ATTEST/SEAL:

**GC SERVICES LIMITED
PARTNERSHIP**

By: _____
Name:
Title:

By: _____
Name:
Title:
Tax I.D. No. _____

E. Signatures

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ATTEST/SEAL (if a corporation):
WITNESS (if not a corporation):

**PROFESSIONAL ACCOUNT
MANAGEMENT, LLC**

By: _____
Name:
Title:

By: _____
Name:
Title:
Tax I.D. No. _____

ATTEST/SEAL:

**GILA LLC D/B/A MUNICIPAL
SERVICES BUREAU (MSB)**

By: _____
Name:
Title:

By: _____
Name:
Title:
Tax I.D. No. _____

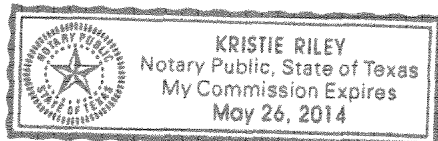
ATTEST/SEAL:

**GC SERVICES LIMITED
PARTNERSHIP**

By GC Financial Corp., managing general partner

By: Kristie Riley
Name:
Title:

By: Linda M Spellicy
Name: Linda M Spellicy
Title: Senior Vice President, Treasury
Tax I.D. No. 76-0199626



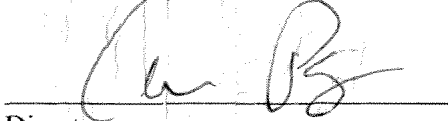
ATTEST/SEAL:

Signed by:



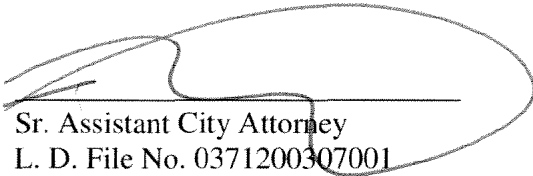
City Secretary

APPROVED:



Director
Administration & Regulatory
Affairs Department

APPROVED AS TO FORM



Sr. Assistant City Attorney
L. D. File No. 0371200307001


CITY OF HOUSTON, TEXAS



Mayor 

COUNTERSIGNED BY:



City Controller 

DATE COUNTERSIGNED:

2-21-13

II. DEFINITIONS

As used in this Agreement, the following terms have the meanings set out below:

“Account” means debts and accounts receivable owed by a Person to the City arising out of a motor vehicle parking violation within the Houston City limits.

“Account Balance” means the amount of money a Person owes on an Account.

“Agreement” means this Agreement between the Parties, including all exhibits and any written amendments thereto, which have been authorized by City Council by ordinance or motion and approved by Contractors.

“Agreement Term” is defined in Article V.

“ARA Director” means the Director of the City of Houston Administration and Regulatory Affairs Department or his or her designee.

“Business Day” means every day except Saturday, Sunday or a designated City Holiday.

“Cash Collection Rate” means the total payments collected divided by the total assigned during a period established in the Engagement Letter. The cash collection rate excludes any amounts recalled, suspended, or dismissed due to an administrative decision.

“Citation Management System” is the computer-based information system used to store and manage records associated with all phases of citation issuance, permitting, collections, hearings, and correspondence issued by any City authorized entity or individual.

“City” is defined in the preamble of this Agreement and includes its successors and assigns.

“City Attorney” means the currently appointed or acting City Attorney or his/her designee.

"Competitive Challenge Model" is a financial management tool the City is implementing for this Agreement, and is further described in Article III.B.

"Contractor(s)" is defined in the preamble of this Agreement and include their respective successors and assigns.

"Credit Bureau Reporting Action Letter" means a written notice to a Violator that the City intends to report Past Due Accounts to one or more national Credit Bureau Reporting agencies if the Account is not paid within thirty (30) days.

"Difficult to Collect" means an Account that 1) is unlikely to be collectible without substantial increased effort or cost expended by the Contractor, or 2) would likely require litigation that would not be cost effective for a Contractor absent enhanced financial incentive.

"Documents" include the collection system, notes, manuals, notebooks, plans, computations, databases, tabulations, exhibits, reports, underlying data, charts, analyses, maps, letters, models, forms, photographs, scripts, notices, the original tracings of all drawings, designs and plans, electronic data and computer programs and other work products (and any modifications or improvements to them) that Contractor prepares or provides under this Agreement, or develops in conjunction with the City or with the Contractor's subcontractors.

"Due Date" means the date upon which payment is specified to be made on the face of a Parking Citation or such other date as specified by a hearing officer or the ARA Director and provided to the Contractor upon referral.

"Effective Date of the Agreement" means the First Countersignature Date by the City Controller in this Agreement.

“Effective Date of an Engagement Letter” means the date signed by the Mayor as shown on the signature page of that Engagement Letter.

“Engagement Letter” means the agreement between the City and a Contractor that assigns Accounts for collection and obligates the Contractor to perform specified services for the City, and obligates the City to pay Contractor for those services, all on the terms and conditions specified therein. Each Engagement Letter will be similar in form and content to the Sample Engagement Letter attached as Exhibit “G” to this Agreement.

“First Countersignature Date” in this Agreement means that date shown as the earliest date countersigned by the City Controller, and not the date of any subsequently countersigned signature pages of this Agreement.

“Mailing Noticing System” means an automated state of the art noticing method that meets or exceeds industry standards as established by the United States Postal Service for processing all mail notices required by this Agreement, capable of printing the notice, folding and inserting the notice into an envelope, applying appropriate postage and delivering the notices to an appropriate US Post Office for mailing in compliance with all applicable US Postal regulations. If the City has provided the necessary information and approved the forms, the Notice must include a payment coupon that provides an Optical Character Recognition (“OCR”) scan line to allow for automated payment process at an off site payment center.

“Master File Accounts” means Account data files submitted by the City to the Contractor and maintained by the Contractor under the terms of this Agreement.

“Master File” or “Master File of Accounts” means the ‘file of record’ for all unpaid Accounts.

“Maximum Collection Fee Payment” means the maximum amount to be paid by the City to a Contractor for its collection services under this Agreement which shall not exceed:

- 1) The statutory collection fee provided under the Texas Code of Criminal Procedure, Article 103.0031(b) and (c);
- 2) Where no statutory collection fee applies, 30% of the total Account Balances actually collected by Contractor minus costs and fees owed to state agencies, if applicable; and
- 3) 75% of the total Account Balances actually collected by Contractor minus costs and fees owed to state agencies on Accounts determined by the City Attorney to be Difficult to Collect.

Maximum Collection Fee Payment shall come out of Account Balances actually collected by Contractor plus additional collection fees as provided under the Texas Code of Criminal Procedure Article 103.0031, if any, and from no other source.

“Negotiated Collection Fee Payment” means the fee payment as set out in an Engagement Letter and agreed to between the ARA Director and a specific Contractor for its collection services under this Agreement, not to exceed the Maximum Collection Fee Payment.

“Nixie” means a mailing piece that is undeliverable as addressed and is returned to the mailer by the U. S. Postal Service, also known as “Undeliverable As Addressed Mail.”

“Non-Traditional Collection Efforts”, also known as “Non-Traditional Collection Techniques” shall have the meaning as set out in Section 5.7 of the attached Exhibit “A”.

“OCA Reports” mean reports that are filed monthly by the Municipal Courts Department with the Texas Office of Court Administration, where applicable.

“Parking Citation” means a Citation issued for the alleged violation of any city ordinance or state penal law regarding the parking of vehicles.

“Parking Management System” means the T2 Flex system that maintains all parking violation records and is managed by the Parking Management Division of the ARA department.

“Parking Management Collection Services” and “Services” refer to the complete collection process that makes up the final, delivered services.

“Parking Management Project Team” is used to describe the City employees who will work with the Contractor to implement the solution.

“Parties” mean all the entities set out in the Preamble who have executed and are bound by this Agreement. Parties may include additional Contractors from the approved Vendor Pool, who may be added to this Agreement at any time at the sole discretion of the City, without the consent of the existing Contractors.

“Past Due” means unpaid after the Due Date.

“Person” means an individual, a corporation, organization, government or governmental subdivision or agency, business trust, estate, trust, partnership, association, and any other legal entity, but does not include the City.

“Revenue Pool” is one or more Revenue Streams that exist in a single Department, or that share financial, legal and practical characteristics that require or will benefit from assignment to the same Revenue Pool, or aid the management and cost-effectiveness of debt collection.

“Revenue Stream” is a flow of funds into the city from a particular source, or an identifiable segment of that flow.

“Revenue Stream Department” or “Revenue Department” means the City Department that is a source of the unpaid Accounts to be collected.

“TDMV” or “DMV” refers to the Texas Department of Motor Vehicles.

“Vendor Pool” is one or more collection services contractors who are either parties to this Agreement or selected from vendors who have been determined by the Mayor to meet the qualifications set out in Exhibit A to Ordinance No. 2013-0131. A Vendor Pool is defined and established at the sole discretion of City for its convenience, to aid the management and cost-effectiveness of debt collection, or assist the evaluation of vendor performance. The City may choose to assign a vendor to more than one Vendor Pool. Assignment to a Vendor Pool does not confer any legal rights on a Contractor.

“Violator” means a Person liable for payment of an Account arising out of a motor vehicle parking violation.

III. DUTIES OF CONTRACTOR

A. Scope of Services

In consideration of the mutual covenants contained in this Agreement, and for other good and valuable consideration, Contractor(s) shall provide all labor, material, and supervision necessary to perform the specific collection services described in an Engagement Letter which may be duly executed between the ARA Director and a Contractor, substantially similar to the form attached to this Agreement as Exhibit “G”. Each Contractor shall negotiate the Engagement Letter with the ARA Director in good faith. The Engagement Letter’s Scope of Services will include all or part of the tasks set out in the Scope of Services attached to this Agreement as Exhibit “A”, and such other related services as the ARA Director determines necessary for purposes of this Agreement.

B. Competitive Challenge Model

“Competitive Challenge Model” is a financial management tool in which multiple qualified Contractors compete against each other for Accounts to be assigned to them for collection. The ARA Director will develop evaluation criteria, quantitative and qualitative, to measure the relative performance of the Contractors. The ARA Director may transfer Accounts from one Contractor to another according to his/her consideration of the criteria. Contractors acknowledge and agree that the ARA Director has sole discretion to manage the Competitive Challenge Model and all related processes, including without limitation 1) establishment of the standards and criteria used to evaluate Contractor performance, 2) application of those standards and criteria, 3) assignment and recall of Accounts, 4) evaluation of Contractor performance, 5) Revenue Pools and Vendor Pools and 6) the selection of additional contractors, as authorized by ordinance. Contractors further acknowledge and agree that it is the City’s intent to increase assignment of Accounts to better performers, and decrease assignments to lower performers. Cash Collection Rate will be one measure of performance.

C. Coordinate Performance

Contractor shall coordinate its performance with the ARA Director and other persons that the ARA Director designates. Contractor shall promptly inform the ARA Director and other persons(s) of all significant events relating to the performance of this Agreement.

D. Reports

The assigned Contractor(s) shall prepare and submit reports as requested by the ARA Director in each Engagement Letter.

E. RELEASE

CONTRACTORS AGREE TO AND SHALL RELEASE THE CITY, ITS AGENTS, EMPLOYEES, OFFICERS, AND LEGAL REPRESENTATIVES (COLLECTIVELY THE "CITY") FROM ALL LIABILITY FOR INJURY, DEATH, DAMAGE, OR LOSS TO PERSONS OR PROPERTY SUSTAINED IN CONNECTION WITH OR INCIDENTAL TO PERFORMANCE UNDER THIS AGREEMENT, EVEN IF THE INJURY, DEATH, DAMAGE, OR LOSS IS CAUSED BY THE CITY'S SOLE OR CONCURRENT NEGLIGENCE AND/OR THE CITY'S STRICT PRODUCTS LIABILITY OR STRICT STATUTORY LIABILITY.

F. INDEMNIFICATION

1) CONTRACTORS AGREE TO AND SHALL DEFEND, INDEMNIFY, AND HOLD THE CITY, ITS AGENTS, EMPLOYEES, OFFICERS, AND LEGAL REPRESENTATIVES (COLLECTIVELY THE "CITY") HARMLESS FOR ALL CLAIMS, CAUSES OF ACTION, INCLUDING BUT NOT LIMITED TO VIOLATIONS OF APPLICABLE DEBT COLLECTION OR PRIVACY LAWS, LIABILITIES, FINES, AND EXPENSES (INCLUDING, WITHOUT LIMITATION, ATTORNEYS' FEES, COURT COSTS, AND ALL OTHER DEFENSE COSTS AND INTEREST) FOR INJURY, DEATH, DAMAGE, OR LOSS TO PERSONS OR PROPERTY SUSTAINED IN CONNECTION WITH OR INCIDENTAL TO PERFORMANCE UNDER THIS AGREEMENT INCLUDING, WITHOUT LIMITATION, THOSE CAUSED BY:

(a) CONTRACTORS' AND/OR THEIR RESPECTIVE AGENTS', EMPLOYEES', OFFICERS', DIRECTORS', CONTRACTORS', OR SUBCONTRACTORS' (COLLECTIVELY IN NUMBERED PARAGRAPHS 1-3,

FOR PURPOSES OF THIS SECTION F, "CONTRACTORS") ACTUAL OR ALLEGED NEGLIGENCE OR INTENTIONAL ACTS OR OMISSIONS;

(b) THE CITY'S AND CONTRACTORS' ACTUAL OR ALLEGED CONCURRENT NEGLIGENCE, WHETHER CONTRACTORS ARE IMMUNE FROM LIABILITY OR NOT; AND

(c) THE CITY'S AND CONTRACTORS' ACTUAL OR ALLEGED STRICT PRODUCTS LIABILITY OR STRICT STATUTORY LIABILITY, WHETHER CONTRACTORS ARE IMMUNE FROM LIABILITY OR NOT.

d) CONTRACTORS SHALL DEFEND, INDEMNIFY, AND HOLD THE CITY HARMLESS DURING THE TERM OF THIS AGREEMENT AND FOR FOUR YEARS AFTER THE AGREEMENT TERMINATES. CONTRACTORS' INDEMNIFICATION IS LIMITED TO \$1,000,000 PER OCCURRENCE. EXCEPT AS OTHERWISE PROVIDED HEREIN, CONTRACTOR SHALL NOT INDEMNIFY THE CITY FOR THE CITY'S SOLE NEGLIGENCE.

(2) CONTRACTORS SHALL MAKE TIMELY PAYMENTS TO ALL PERSONS AND ENTITIES SUPPLYING LABOR, MATERIALS, OR EQUIPMENT FOR THE PERFORMANCE OF THIS AGREEMENT. CONTRACTORS AGREE TO INDEMNIFY, SAVE, PROTECT, AND HOLD HARMLESS (INCLUDING, WITHOUT LIMITATION, ATTORNEY'S FEES, COURT COSTS AND ALL OTHER DEFENSE COSTS AND INTEREST) THE CITY ITSELF, ITS PRESENT, FORMER AND FUTURE ELECTED AND APPOINTED OFFICIALS, OFFICERS, REPRESENTATIVES, ATTORNEYS, INSURERS, AGENTS, SERVANTS, EMPLOYEES, SUCCESSORS AND ASSIGNS, AND ALL AFFILIATED PERSONS AND ENTITIES [REFERRED TO

JOINTLY IN THIS PARAGRAPH AS "CITY"] OF, FROM AND AGAINST ANY AND ALL CLAIMS, LOSSES, JUDGMENTS, FINES, PENALTIES, DEMANDS, DAMAGES, LOSS OF USE OR SERVICES, LIABILITIES AND CAUSES OF ACTION, KNOWN AND UNKNOWN, AT LAW AND IN EQUITY, IN CONTRACT, IN TORT, UNDER STATE OR FEDERAL STATUTES OR PURSUANT TO THE CITY'S CHARTER OR THE TEXAS OR UNITED STATES CONSTITUTIONS (COLLECTIVELY "CLAIMS"), INCLUDING BUT NOT LIMITED TO CLAIMS ARISING OUT OF THE ACTUAL OR ALLEGED INTENTIONAL CONDUCT, SOLE NEGLIGENCE, OR GROSS NEGLIGENCE OF THE CITY, OR THE ACTUAL OR ALLEGED STRICT, CONSTITUTIONAL OR STATUTORY LIABILITY OF THE CITY, ACCRUING IN ANY WAY TO ANY OF CONTRACTORS' AGENTS, EMPLOYEES, SERVANTS, SUBCONTRACTORS AND/OR SUPPLIERS AND/OR BY ANY OTHER THIRD PARTY AND/OR ENTITY CLAIMING, BY THROUGH AND/OR UNDER CONTRACTORS AGAINST THE CITY, AS A RESULT OF ANY ACT, OMISSION, EVENT, TRANSACTION OR OCCURRENCE IN ANY WAY ARISING OUT OF, RELATING TO OR TOUCHING UPON THIS AGREEMENT.

G. RELEASE AND INDEMNIFICATION – (PATENT, COPYRIGHT, TRADEMARK, AND TRADE SECRET INFRINGEMENT)

CONTRACTORS AGREE TO AND SHALL RELEASE AND DEFEND, INDEMNIFY, AND HOLD HARMLESS THE CITY, ITS AGENTS, EMPLOYEES, OFFICERS, AND LEGAL REPRESENTATIVES (COLLECTIVELY THE "CITY") FROM ALL CLAIMS OR CAUSES OF ACTION BROUGHT AGAINST THE CITY BY ANY PARTY, INCLUDING CONTRACTORS, ALLEGING THAT THE CITY'S USE OF

ANY EQUIPMENT, SOFTWARE, PROCESS, OR DOCUMENTS CONTRACTORS FURNISH DURING THE TERM OF THIS AGREEMENT INFRINGES ON A PATENT, COPYRIGHT, OR TRADEMARK, OR MISAPPROPRIATES A TRADE SECRET. CONTRACTORS SHALL PAY ALL COSTS (INCLUDING, WITHOUT LIMITATION, ATTORNEYS' FEES, COURT COSTS, AND ALL OTHER DEFENSE COSTS, AND INTEREST) AND DAMAGES AWARDED.

CONTRACTORS SHALL NOT SETTLE ANY CLAIM ON TERMS WHICH PREVENT THE CITY FROM USING THE EQUIPMENT, SOFTWARE, PROCESS, AND DOCUMENTS WITHOUT THE CITY'S PRIOR WRITTEN CONSENT.

WITHIN SIXTY (60) DAYS AFTER BEING NOTIFIED OF THE CLAIM, CONTRACTORS SHALL, AT THEIR OWN EXPENSE, EITHER (1) OBTAIN FOR THE CITY THE RIGHT TO CONTINUE USING THE EQUIPMENT, SOFTWARE, PROCESS, AND DOCUMENTS OR, (2) IF BOTH PARTIES AGREE, REPLACE OR MODIFY THEM WITH COMPATIBLE AND FUNCTIONALLY EQUIVALENT PRODUCTS. IF NONE OF THESE ALTERNATIVES IS REASONABLY AVAILABLE, THE CITY MAY RETURN THE EQUIPMENT, SOFTWARE, OR DOCUMENTS, OR DISCONTINUE THE PROCESS, AND CONTRACTORS SHALL REFUND THE PURCHASE PRICE.

H. SUBCONTRACTORS' INDEMNIFICATION

CONTRACTORS SHALL REQUIRE ALL OF THEIR SUBCONTRACTORS (AND THEIR SUBCONTRACTORS) TO RELEASE AND INDEMNIFY THE CITY TO THE SAME EXTENT AND IN SUBSTANTIALLY THE SAME FORM AS THEIR RELEASE AND INDEMNITY TO THE CITY AS SET FORTH IN THIS AGREEMENT.

I. Indemnification Procedures

(1) Notice of Claims. If the City or Contractor(s) receives notice of any claim or circumstances, which could give, rise to an indemnified loss, the receiving party shall give written notice to the other party within thirty (30) days. The notice must include the following:

- (a) a description of the indemnification event in reasonable detail,
- (b) the basis on which indemnification may be due, and
- (c) the anticipated amount of the indemnified loss.

This notice does not estop or prevent the City from later asserting a different basis for indemnification or a different amount of indemnified loss than that indicated in the initial notice. If the City does not provide this notice within the thirty (30)-day period, it does not waive any right to indemnification except to the extent that Contractor(s) is prejudiced, suffers loss, or incurs expense because of the delay.

(2) Defense of Claims

(a) Assumption of Defense. Contractor(s) may assume the defense of the claim at its own expense with counsel chosen by it that is reasonably satisfactory to the City. Contractor(s) shall then control the defense and any negotiations to settle the claim. Within 10 days after receiving written notice of the indemnification request, Contractor(s) must advise the City as to whether or not it will defend the claim. If Contractor(s) does not assume the defense, the City shall assume and control the defense, and all defense expenses constitute an indemnification loss.

(b) Continued Participation. If Contractor(s) elects to defend the claim, the City may retain separate counsel to participate in (but not control) the defense and to participate in (but not control) any settlement negotiations. Contractor(s) may settle the claim without the consent or agreement of the City, unless it (i) would result in injunctive relief or other equitable remedies or

otherwise require the City to comply with restrictions or limitations that adversely affect the City, (ii) would require the City to pay amounts that Contractor(s) does not fund in full, (iii) would not result in the City's full and complete release from all liability to the plaintiffs or claimants who are parties to or otherwise bound by the settlement.

J. Insurance

Contractors shall each maintain in effect certain insurance coverage, which is described as follows:

(1) Risks and Limits of Liability. Contractors shall each maintain the following coverages and limits of liability:

<u>(Coverage)</u>	<u>(Limit of Liability)</u>
Workers' Compensation	Statutory for Workers' Compensation
Employer's Liability	Bodily injury by accident \$100,000 (each accident) Bodily injury by disease \$100,000 (policy limit) Bodily injury by disease \$100,000 (each employee)
Commercial General Liability: Including Broad Form Coverage, Contractual Liability, Bodily and Personal Injury, and Completed Operations	Bodily Injury and Property Damage Combined Limits of \$500,000 each Occurrence and \$1,000,000 aggregate
Automobile Liability Insurance (for vehicles Contractors use in performing under this Agreement, including Employer's Non-Owned and Hired Auto Coverage)	\$1,000,000 combined single limit per occurrence
Professional Liability Insurance	\$1,000,000 per occurrence \$1,000,000 aggregate

Defense costs are excluded from the face amount of the policy.

Aggregate Limits are per 12-month policy period
unless otherwise indicated.

(2) Form of Policies. The ARA Director may approve the form of the insurance policies, but nothing the ARA Director does or fails to do relieves Contractors from their duties to provide the required coverage under this Agreement. The ARA Director's actions or inactions do not waive the City's rights under this Agreement.

(3) Issuers of Policies. The issuer of any policy shall have a Certificate of Authority to transact insurance business in Texas or have a Best's rating of at least B+ and a Best's Financial Size Category of Class VI or better, according to the most current edition Best's Key Rating Guide, Property-Casualty United States.

(4) Insured Parties. Each policy, except those for Workers' Compensation, Employer's Liability, and Professional Liability, must name the City (and its officers, agents, and employees) as Additional Insured parties on the original policy and all renewals or replacements.

(5) Deductibles. Contractors shall be responsible for and bear any claims or losses to the extent of any deductible amounts and waive any claim they may have for the same against the City, its officers, agents, or employees.

(6) Cancellation. No policy may be canceled, materially modified, or non-renewed unless Contractors give the ARA Director thirty (30) days advance written notice. Contractors shall give written notice to the ARA Director within five days of the date on which total claims by any party against Contractors reduce the aggregate amount of coverage below the amounts required by this Agreement. In the alternative, the policy may contain an endorsement establishing a policy aggregate for the particular project or location subject to this Agreement.

(7) Subrogation. Each policy, except Professional Liability, must contain an endorsement to the effect that the issuer waives any claim or right of subrogation to recover against the City, its officers, agents, or employees.

(8) Endorsement of Primary Insurance. Each policy, except Workers' Compensation and Professional Liability, must contain an endorsement that the policy is primary to any other insurance available to the Additional Insured with respect to claims arising under this Agreement.

(9) Liability for Premium. Contractors shall pay all insurance premiums, and the City shall not be obligated to pay any premiums.

(10) Subcontractors. Contractors shall require all subcontractors to carry insurance naming the City as an additional insured and meeting all of the above requirements except amount. The amount must be commensurate with the amount of the subcontract, but in no case less than \$500,000 per occurrence. Contractors shall provide copies of insurance certificates to the ARA Director.

(11) Proof of Insurance.

(a) On the Effective Date and at any time during the Term of this Agreement, Contractors shall furnish the ARA Director with Certificates of Insurance, including any necessary endorsements, along with an Affidavit from Contractors confirming that the Certificates accurately reflect the insurance coverage maintained. If requested in writing by the ARA Director, Contractors shall furnish the City with certified copies of Contractors' actual insurance policies.

(b) Contractors shall continuously and without interruption, maintain in full force and effect the required insurance coverages specified in this Section. If

Contractors do not comply with this requirement, the ARA Director, at his or her sole discretion, may immediately suspend Contractors from any further performance under this Agreement and begin procedures to terminate this Agreement for default. The City shall never waive or be estopped to assert its right to terminate this Agreement because of its acts or omissions regarding its review of insurance documents.

(12) Other Insurance. If requested by the ARA Director, Contractors shall furnish adequate evidence of Social Security and Unemployment Compensation Insurance, to the extent applicable to Contractors' operations under this Agreement.

K. WARRANTIES

(1) GENERAL WARRANTY

CONTRACTORS' PERFORMANCE SHALL CONFORM TO THE PROFESSIONAL STANDARDS PREVAILING IN HARRIS COUNTY, TEXAS WITH RESPECT TO THE SCOPE, QUALITY, DUE DILIGENCE, AND CARE OF THE SERVICES AND PRODUCTS CONTRACTORS PROVIDES UNDER THIS AGREEMENT.

(2) SYSTEM WARRANTY

EACH CONTRACTOR WARRANTS THAT ITS COLLECTION SYSTEM WILL PERFORM. THE CONTRACTOR IS RESPONSIBLE FOR THE PROMPT CORRECTION OF ANY ERRORS OR OMISSIONS. IN THE EVENT OF ANY INTERRUPTION OF SERVICE, OR FAILURE OF CONTRACTOR'S COLLECTION SYSTEM OR CONTRACTOR'S PERSONNEL TO PERFORM SERVICE AS SPECIFIED IN THIS AGREEMENT, THE CONTRACTOR

SHALL IMMEDIATELY RESTORE AND PROVIDE SUCH SERVICES TO THE CITY.

L. Licenses and Permits

Contractors shall obtain, maintain, and pay for all licenses, permits, and certificates including all professional licenses required by any statute, ordinance, rule, or regulation. Contractors shall immediately notify the ARA Director of any suspension, revocation, or other detrimental action against the license of any agent, servant or employee of Contractors who is providing services under this Agreement.

M. Compliance with Laws

Contractors shall comply with all applicable state, federal laws and regulations and the City Charter and Code of Ordinances, particularly credit reporting and debt collection laws.

N. Compliance with Equal Opportunity Ordinance

Contractors shall comply with the City's Equal Employment Opportunity Ordinance as set out in Exhibit "B."

O. MWBE Compliance

Contractors shall comply with the City's Minority and Women Business Enterprise ("MWBE") programs as set out in Chapter 15, Article V of the City of Houston Code of Ordinances. Contractors shall make good faith efforts to award subcontracts or supply agreements in at least 15% of the value of the issued Engagement Letter to MWBEs. Contractors acknowledge that it has reviewed the requirements for good faith efforts on file with the City's Office of Business Opportunities ("OBO") and will comply with them.

Contractors shall require written subcontracts with all MWBE subcontractors and shall submit all disputes with MWBEs to binding arbitration if directed to do so by the OBO Director.

MWBE subcontracts must contain the terms set out in Exhibit "C". If Contractor is an individual person (as distinguished from a corporation, partnership, or other legal entity), and the amount of the subcontract is \$50,000 or less, the attorneys of the respective parties must also sign the subcontract.

P. Drug Abuse Detection and Deterrence

(1) It is the policy of the City to achieve a drug-free workforce and workplace. The manufacture, distribution, dispensation, possession, sale, or use of illegal drugs or alcohol by contractors while on City Premises is prohibited. Contractors shall comply with all the requirements and procedures set forth in the Mayor's Drug Abuse Detection and Deterrence Procedures for Contractors, Executive Order No. 1-31 ("Executive Order"), which is incorporated into this Agreement and is on file in the City Secretary's Office.

(2) Before the City signs this Agreement, Contractors shall file with Contract Compliance Officer for Drug Testing ("CCODT"):

- (a) a copy of its drug-free workplace policy,
- (b) the Drug Policy Compliance Agreement substantially in the form set forth in Exhibit "D" together with a written designation of all safety impact positions and,
- (c) if applicable (e.g. no safety impact positions), the Certification of No Safety Impact Positions, substantially in the form set forth in Exhibit "E".

If Contractors file a written designation of safety impact positions with their Drug Policy Compliance Agreement, they also shall file every 6 months during the performance of this Agreement or on completion of this Agreement if performance is less than 6 months, a Drug Policy Compliance Declaration in a form substantially similar to Exhibit "F". Contractors shall

submit the Drug Policy Compliance Declaration to the CCODT within thirty (30) days of the expiration of each 6-month period of performance and within thirty (30) days of completion of this Agreement. The first 6-month period begins to run on the date the City issues its Notice to Proceed or if no Notice to Proceed is issued, on the first day Contractors begin work under this Agreement.

(3) Contractors also shall file updated designations of safety impact positions with the CCODT if additional safety impact positions are added to Contractors' employee work force.

(4) Contractors shall require that their subcontractors comply with the Executive Order, and Contractors shall secure and maintain the required documents for City inspection.

Q. Conveyance of Intellectual Property Developed in Connection with this Agreement by Contractors to City

Except as prohibited by any licensing agreements between the Contractors and their software providers, each Contractor hereby conveys and assigns to the City for all time, such Contractor's entire interest and full ownership worldwide in and to the Documents. The City shall have full and unencumbered rights to develop, use, duplicate, sell, distribute, adapt, modify, enhance, and/or translate the Documents and derivative works thereof. Thus, all rights, including copyrights, patent rights, trade secret rights, trademark and trade dress rights, and any other rights associated with the development, use, duplication, sale, distribution, adaptation, modification, enhancement, and translation of the Documents contemplated hereunder is vested in the City.

Each Contractor hereby agrees to execute all agreements required by the ARA Director to further evidence the City's ownership of the Documents. Contractors shall cooperate with the City in registering, creating and enforcing the City's proprietary rights arising pursuant to this

Agreement. On termination of this Agreement, or if requested prior to termination by the City, each Contractor shall deliver all originals and copies of the Documents to the City, save and except that the Contractor may retain a copy of the Documents for its archives. Contractors shall not use, sell, license or market the Documents except to perform this Agreement. Contractors shall obtain written agreements from the authors of the Documents that bind them to the terms of this Agreement.

R. Time of Performance

The assigned Contractor(s) shall commence services under this Agreement on the date specified in their Engagement Letter. Such services shall be diligently performed and shall be completed within the time period designated by the ARA Director, unless the ARA Director extends the time for completion in writing. Contractor acknowledges that time is of the essence.

S. Pay or Play Program

The requirements and terms of the City of Houston Pay or Play Program, as set out in Executive Order 1-7, are incorporated into this Agreement for all purposes. Contractors have reviewed Executive Order No. 1-7 and shall comply with its terms and conditions as they are set out at the time of City Council approval of this Agreement.

T. Liquidated Damages for Failure to Meet Performance Scorecard

Contractor agrees and acknowledges that, for purposes of this Section T., performance will be measured based on a scorecard of Contractor's performance developed and agreed to by the Contractor and the City. If Contractor fails to meet the performance goals under the scorecard, the City will suffer harm, although the actual damages from that harm are difficult to estimate. Therefore, if Contractor does not meet the performance goals as measured and recorded on the scorecard, Contractor shall pay to the City the amounts stipulated under the Cash

Collection Rate Damages Table below as liquidated damages. These amounts are a reasonable forecast of just compensation for the harm to the City. The amount of the liquidated damages are dependent upon the Cash Collection Rate achieved by the Contractor during the period identified in the Engagement Letter and are based on the sliding scale outlined below. Damages will be assessed at the annual performance review by the ARA Director. Payments to the City will be due within thirty (30) days of the conclusion of the performance review meeting and notification in writing by the ARA Director to the Contractor.

Cash Collection Rate Damages Table:

Cash Collection Rate	Damages
less than 30%	\$200,000.00
30.1% to 35%	\$100,000.00
35.1% to 40%	\$50,000.00
Over 40%	0

IV. DUTIES OF CITY

A. Payment Terms

Subject to all terms and conditions of this Agreement, the City agrees to pay, and the Contractors agree to accept, as their sole compensation for services performed under this Agreement, the Negotiated Collection Fee Payment as set out in the Engagement Letter to a specific Contractor, which shall never exceed the Maximum Collection Fee Payment defined in this Agreement.

If the ARA Director recalls Accounts from one Contractor and assigns them to another Contractor, the original Contractor shall not be paid a collection fee for the re-assigned Accounts, and original Contractor waives any rights to the re-assigned Accounts.

If an Engagement Letter expires or is terminated by the ARA Director, the Contractor shall not be paid a collection fee for any amounts collected or received after such expiration or termination, and Contractor waives any rights to amounts collected or received after such expiration or termination.

By executing an Engagement Letter, Contractor acknowledges that the Negotiated Collection Fee Payment set out in the Engagement Letter is sufficient to pay for Contractor's collection services described therein, including all contract costs and fees. All fees and expenses to be paid to Contractor by the City may only be paid from Allocated Funds, as provided in Section D below.

B. Invoicing

Contractor shall submit its invoice to the ARA Director for performance of services as set out in the Engagement Letter for any fee that may be due as provided in Section A above, for the preceding calendar month. The City shall pay Contractor within thirty (30) days of the receipt and approval of the invoices.

If the City disputes any items in an invoice Contractor submits for any reason, including lack of supporting documentation, for the applicable services, the ARA Director shall temporarily delete the disputed item and pay the remainder of the invoice. The ARA Director shall promptly notify Contractor of the dispute and request remedial action. After the dispute is settled, Contractor shall include the disputed amount on a subsequent regularly scheduled invoice or on a special invoice for the disputed item only.

C. Taxes

The City is exempt from payment of Federal Excise and Transportation Tax and Texas Limited Sales and Use Tax. Contractors' invoices to the City must not contain assessments of

any of these taxes. The ARA Director will furnish the City's exemption certificate and federal tax identification number to Contractors if requested.

D. ALLOCATION OF FUNDS / Limitation of City's Duty to Pay

(a) The City's duties to pay money to the Contractors for any purpose under this Agreement are limited in their entirety by the provisions of this Section D. In order to comply with Article II, Section 19 and 19a of the City's Charter and Article XI, Section 5 of the Texas Constitution, the City has appropriated \$0 under this Agreement ("Original Allocation") to pay money to any Contractor under any Engagement Letter and no other funds are allocated hereunder. Notwithstanding anything herein to the contrary, the City's obligations under this Agreement are limited to only the amounts actually collected hereunder and Contractor agrees to look only to Account Balances, plus statutory collection fees, if any, it actually collects for any payments hereunder. The City is permanently excused from making any other payments due under this Agreement for any calendar month if (and to the extent that) during such calendar month, the fee amounts sufficient to make such payments are not collected.

V. TERM AND TERMINATION

A. Agreement Term

1) This Agreement is effective on the First Countersignature Date herein by the City Controller, except as provided in the following section V.A.2), and, unless sooner terminated under other provisions of this Agreement, will remain in effect for five (5) years thereafter (the "Initial Term"). City Council may authorize the ARA Director to extend this Agreement for an additional term not to exceed five years ("Extension Term") at any time before the expiration or termination of the Initial Term, subject to allocation

of sufficient funding by the City. The Extension Term shall commence immediately upon the expiration or termination of the Initial Term.

2) Additional Contractors' Effective Date. The Effective Date of this Agreement for Additional Contractors ("Additional Contractors' Agreement"), as discussed under Article I.E., shall be the date on which the City Controller countersigns on the signature page adding the Additional Contractors. However, the expiration or termination date of the Additional Contractors' Agreement or any Extension Term thereof shall be the same for those Additional Contractors as for the Original Signatories and shall be measured from the First Countersignature Date.

3) The ARA Director may issue Engagement Letters at any time during the Initial Term of the Agreement and any Extension Term thereof. Each Engagement Letter may be issued for the period set forth therein which shall not exceed three (3) years, plus two automatic renewals of one year each. If the ARA Director chooses not to allow an Engagement Letter to automatically renew, he or she will give a written notice of non-renewal to the Contractor at least thirty (30) days before expiration of the then-current term.

If upon the final expiration or other termination of this Agreement, an Engagement Letter(s) is still in effect, then the Agreement shall likewise remain in effect for those purposes necessary and appropriate for the Engagement Letter(s) to continue to its own expiration or termination.

B. Termination for Convenience by the City

The ARA Director, at his or her sole discretion, may terminate this Agreement and/or any and all Engagement Letters at any time by giving thirty (30) days written notice to each affected

Contractor. The City's right to terminate this Agreement or any Engagement Letter for convenience is cumulative of all rights and remedies which exist now or in the future. Termination of one or more Engagement Letters does not terminate this Agreement. On receiving the Engagement Letter termination notice, the affected Contractor shall, unless the notice directs otherwise, immediately discontinue all services or only those services specifically enumerated in the notice under this Agreement and cancel all existing orders and subcontracts or specified services that are chargeable to this Agreement.

TERMINATION OF THIS AGREEMENT AND RECEIPT OF PAYMENT FOR SERVICES RENDERED UP TO THE DATE OF TERMINATION ARE CONTRACTOR'S ONLY REMEDIES FOR THE CITY'S TERMINATION FOR CONVENIENCE. TERMINATION FOR CONVENIENCE BY THE CITY DOES NOT CONSTITUTE A DEFAULT OR BREACH OF THIS AGREEMENT. CONTRACTOR WAIVES ANY CLAIM (OTHER THAN ITS CLAIM FOR PAYMENT AS SPECIFIED IN THIS SECTION) IT MAY HAVE NOW OR IN THE FUTURE FOR FINANCIAL LOSSES OR OTHER DAMAGES RESULTING FROM THE CITY'S TERMINATION FOR CONVENIENCE.

C. Termination for Cause by City

A Contractor's default under an Engagement Letter may also be a default under this Agreement as determined by, and at the sole discretion of, the ARA Director. The ARA Director, at his or her sole discretion, may terminate each Engagement Letter for cause or allow that Contractor to cure the default as provided below, and take any other action provided in the Engagement Letter. Termination for cause of an Engagement Letter shall not affect the other Engagement Letters or this Agreement, unless specified otherwise. The City's right to terminate

an Engagement Letter for Contractor's default is cumulative of all rights and remedies, which exist now or in the future. Default by Contractor occurs if:

- (1) Contractor fails to perform any of its duties under this Agreement or any Engagement Letter.
- (2) Contractor becomes insolvent;
- (3) All or a substantial part of Contractor's assets are assigned for the benefit of its creditors; or
- (4) A receiver or trustee is appointed for Contractor.

If a default under subsection (1) above occurs, the ARA Director will deliver a written notice to Contractor describing the default (the "Default Notice"). The Default Notice will set a date by which the default must be cured (the "Cure Date") to the satisfaction of the ARA Director, however, in no event will the Cure Date be less than twenty (20) days from the date the Default Notice is actually delivered to the Contractor. The ARA Director, at his or her sole option, may extend the Cure Date to a later date. If Contractor does not cure the default before the Cure Date, then the ARA Director may terminate this Agreement on the Cure Date, at no further obligation of the City. To effect final termination, the ARA Director must send written notice to Contractor. After receiving the notice, Contractor shall, unless the notice directs otherwise, immediately discontinue all services under this Agreement and promptly cancel all orders or subcontracts chargeable to this Agreement.

D. Effects of Termination

Upon termination of an Engagement Letter for cause or convenience, the affected Contractor shall immediately turn over Accounts, records and work in progress to the ARA Director. Contractor's right to payments for collections received after the termination date is extinguished upon termination, and Contractor waives any and all rights to such collections.

VI. MISCELLANEOUS

A. Independent Contractor

It is expressly understood and agreed that each Contractor shall perform all work and services described herein as an independent contractor and not as an officer, agent, servant, or employee of the city. Except as herein provided, Contractors shall have exclusive control of and the exclusive right to control the details of the services and work performed hereunder, and all persons performing the same. Contractor shall be solely responsible for the acts and omissions of its officers, agents, employees, contractors, and subcontractors. The doctrine of respondeat superior shall not apply as between the City and Contractors, its officers, agents, employees, contractors, and subcontractors; and that nothing herein shall be construed as creating a partnership or joint enterprise between City and the Contractors.

B. Severability

If any part of this Agreement is for any reason terminated or found to be unenforceable, all other parts remain enforceable unless the result materially prejudices either party.

C. Entire Agreement

This Agreement merges the prior negotiations and understandings of the Parties and embodies the entire agreement of the Parties. No other agreements, assurances, conditions, covenants (expressed or implied), or other terms of any kind, exist between the Parties regarding this Agreement.

D. Written Amendment

This Agreement may be amended only by written instrument executed on behalf of the City (by authority of an ordinance or motion adopted by the City Council) and by the Contractors. The ARA Director is only authorized to perform the respective functions

specifically delegated to him or her in this Agreement and is not authorized to vary the terms of this Agreement.

E. Applicable Laws

This Agreement is subject to the laws of the State of Texas, the City Charter and Ordinances, the laws of the federal government of the United States, and all rules and regulations of any regulatory body or officer having jurisdiction. Venue for any litigation relating to this Agreement is Harris County, Texas.

F. Notices

All notices to either party to the Agreement must be in writing and must be delivered by hand, facsimile, United States registered or certified mail, return receipt requested, United States Express Mail, Federal Express, Airborne Express, UPS or any other national overnight express delivery service. The notice must be addressed to the party to whom the notice is given at its address set out in Section I of this Agreement or other address the receiving party has designated previously by proper notice to the sending party. Postage or delivery charges must be paid by the party giving the notice.

G. Captions

Captions contained in this Agreement are for reference only, and, therefore, have no effect in construing this Agreement. The captions are not restrictive of the subject matter of any section in this Agreement.

H. Non-Waiver

Failure of any party hereto to insist on the strict performance of any of the agreements herein or to exercise any rights or remedies accruing hereunder upon default or failure of performance shall not be considered a waiver of the right to insist on, and to enforce by any

appropriate remedy, strict compliance with any other obligation hereunder or to exercise any right or remedy occurring as a result of any future default or failure of performance.

I. Inspections and Audits

City representatives may perform, or have performed, (1) audits of each Contractor's books and records, and (2) inspections of all places where work is undertaken in connection with this Agreement. Contractors shall keep their books and records available for this purpose for at least four years after this Agreement terminates or expires. This provision does not affect the applicable statute of limitations.

J. Enforcement

The City Attorney or his or her designee may enforce all legal rights and obligations under this Agreement without further authorization. Contractors shall provide to the City Attorney all documents and records that the City Attorney requests to assist in determining Contractor's compliance with this Agreement, with the exception of those documents made confidential by federal or State law or regulation.

K. Ambiguities

If any term of this Agreement is ambiguous, it shall not be construed for or against any party on the basis that the party did or did not write it.

L. Survival

Contractors shall remain obligated to the City under all clauses of this Agreement that expressly or by their nature extend beyond the expiration or termination of this Agreement, including but not limited to, the indemnity provisions.

M. Publicity

Contractors shall make no announcement or release of information concerning this Agreement unless the release has been submitted to and approved, in writing, by the ARA Director.

N. Parties In Interest

This Agreement does not bestow any rights upon any third party, but binds and benefits the City and Contractors only.

O. Successors and Assigns

This Agreement binds and benefits the Parties and their legal successors and permitted assigns; however, this provision does not alter the restrictions on assignment and disposal of assets set out in the following paragraph. This Agreement does not create any personal liability on the part of any officer, agent or employee of the City.

P. Business Structure and Assignments

Contractors shall not assign this Agreement at law or otherwise or dispose of all or substantially all of its assets without the ARA Director's prior written consent. Nothing in this clause, however, prevents the assignment of accounts receivable or the creation of a security interest as described in §9.406 of the Texas Business & Commerce Code. In the case of such an assignment, Contractors shall immediately furnish the City with proof of the assignment and the name, telephone number, and address of the Assignee and a clear identification of the fees to be paid to the Assignee.

Contractors shall not delegate any portion of its performance under this Agreement without the Director's prior written consent.

Q. Remedies Cumulative

Except as otherwise provided, the rights and remedies contained in this Agreement shall not be exclusive, but shall be cumulative of all rights and remedies now or hereafter existing whether by statute, at law, or in equity; provided, however, that neither party may terminate its duties under this Agreement except in accordance with its provisions.

R. Force Majeure

1. Timely performance by all parties is essential to this Agreement. However, no party is liable for delays or other failures to perform its obligations under this Agreement to the extent the delay or failure is caused by Force Majeure. Force Majeure means fires, floods, and other acts of God, explosions, war, terrorist acts, riots, court orders, and the acts of superior governmental or military authority.

2. This relief is not applicable unless the affected party does the following:

- (a) uses due diligence to remove the effects of the Force Majeure as quickly as possible; and
- (b) provides the other party with prompt written notice of the cause of the Force Majeure and its anticipated effect.

3. The City may perform contract functions itself or contract them out to others during periods of Force Majeure if the ARA Director so chooses. Such performance is not a default or breach of this Agreement by the City.

4. If the Force Majeure continues for more than three (3) days from the date performance is affected, the ARA Director may terminate this Agreement by giving 7 days' written notice to Contractors. Any termination is not a default or breach of this Agreement.

CONTRACTORS WAIVE ANY CLAIM IT MAY HAVE FOR FINANCIAL LOSSES OR

OTHER DAMAGES RESULTING FROM THE TERMINATION EXCEPT FOR AMOUNTS DUE TO CONTRACTORS, IF ANY, UNDER THIS AGREEMENT AT THE TIME OF THE TERMINATION.

5. Contractors are not relieved from performing their obligations under this Agreement due to a strike or work slowdown of their employees. Contractors shall employ only fully trained and qualified personnel.

6. The Contractors shall bear any costs associated with recreating data files, and any other cost incurred by the City because of the interruption of services.

S. Waiver, Estoppel and Laches

The Parties expressly agree that the doctrines of Waiver, Estoppel and Laches do not apply to the City.

T. CONTRACTORS' DEBT

IF ANY CONTRACTOR, AT ANY TIME DURING THE TERM OF THIS AGREEMENT, INCURS A DEBT, AS THE WORD IS DEFINED IN SECTION 15-122 OF THE HOUSTON CITY CODE OF ORDINANCES, IT SHALL IMMEDIATELY NOTIFY THE CITY CONTROLLER IN WRITING. IF THE CITY CONTROLLER BECOMES AWARE THAT CONTRACTOR HAS INCURRED A DEBT, HE/SHE SHALL IMMEDIATELY NOTIFY CONTRACTOR IN WRITING. IF CONTRACTOR DOES NOT PAY THE DEBT WITHIN THIRTY (30) DAYS OF EITHER SUCH NOTIFICATION, THE CITY CONTROLLER MAY DEDUCT FUNDS IN AN AMOUNT EQUAL TO THE DEBT FOR ANY PAYMENTS OWED TO CONTRACTOR UNDER THIS AGREEMENT, AND CONTRACTOR WAIVES ANY RECOURSE THEREFOR.

CONTRACTORS SHALL FILE A NEW AFFIDAVIT OF OWNERSHIP, USING THE FORM DESIGNATED BY CITY, BETWEEN FEBRUARY 1 AND MARCH 1 OF EVERY YEAR DURING THE TERM OF THIS AGREEMENT.

U. Addition of Parties to Agreement

Contractors acknowledge and consent to the City's addition of other vendors from the Vendor Pool as parties to this Agreement. The City shall not be required to notify Contractors when other parties are added and any related documents under this subsection shall not require Contractors' consent or signatures.

V. Addition of Revenue Streams and Revenue Departments to Agreement

Contractors acknowledge and consent to the addition or removal of Revenue Departments and Revenue Streams from this Agreement at any time at the sole discretion of ARA Director. Such removal shall not be permitted if it would cause termination of an Engagement Letter, without consent of the Contractor on that Engagement Letter. The City shall not be required to notify Contractors when Revenue Departments and Revenue Streams are added or removed.

W. Contractor's Proprietary Collections System

Section III.Q. of this Agreement notwithstanding, if a Contractor has developed a proprietary collections system before entering into this Agreement, it shall provide to the Director a confidential written description of its system in sufficient detail to identify the items considered proprietary without disclosing the specific proprietary information ("Proprietary System Description") within 45 days of Countersignature of this Agreement. Section III.Q. of this Agreement shall not apply to items or information described in the Proprietary System Description. The Director shall maintain the confidentiality of the Proprietary System

Description to the extent allowed by law, including but not limited to the Texas Public Information Act.

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EXHIBIT "A"

SCOPE OF SERVICES

Unpaid Parking Citation Collection Services

1.0 Scope of Work

- 1.1 The scope of work outlines the services the Contractor shall provide to City during the contract term.
- 1.2 The Parking Management Division (PMD) of the ARA Department manages the City's on-street and some off-street parking operations, but it is not the only City department involved with or affected by the services. For example, the Police Department issues about 20% of all parking citations.

2.0 City of Houston Code of Ordinances

2.1 The services shall help enforce City's policies and procedures. (See www.houstontx.gov/codes/index.html). The following Violation Codes are subject to change by City Ordinance.

VIOLATION CODES *

Code	Violation	Current Fine	After 30 days
APK-1	Parking meter expired	\$30	\$55
APK-2	Overtime parking	\$30	\$55
APK-3	Not parked wholly within space	\$30	\$55
APK-4	Parked on wrong side of street	\$30	\$55
APK-5	Parked on street more than 24 hours	\$30	\$55
APK-6	Parked non-commercial vehicle in truck zone	\$40	\$65
APK-7	Parked in bus zone	\$50	\$75
APK-8	Parked in reserved zone	\$45	\$75
APK-9	Parked in a fire lane	\$305	\$355
APK-10	Parked in emergency no parking zone	\$60	\$80
APK-11	Parked blocking private driveway	\$40	\$65
APK-12	Parked within 15 feet of fire hydrant	\$105	\$155
APK-13	Blocking or parking on sidewalk	\$40	\$65
APK-14	Parked within 20 feet of a crosswalk-intersection	\$40	\$65
APK-15	Parked within 50 feet of rail crossing	\$40	\$65
APK-16	Parked in a tow away zone	\$70	\$105
APK-17	No parking anytime	\$40	\$65
APK-18	Parked in a school zone	\$55	\$80
APK-19	Other parking violation	\$40	\$65
APK-20	Parked more than 18" from right-hand curb	\$40	\$65

APK-21	Parked in a handicapped zone	\$500	\$600
APK-22	Commercial vehicle parked between 2 a.m. and 6 p.m.	\$60	\$80
APK-23	Parked large vehicle in residential district between 6 p.m. and 7 p.m.	\$60	\$80
APK-24	Parked in fire zone	\$130	\$180
APK-25	Other fire code parking violation	\$305	\$355
APK-26	Trailer/semi-trailer parked on street over 2 hours	\$60	\$80
APK-27	Parked on park lawn where prohibited by sign	\$60	\$80
APK-28	Parked obstructing street	\$40	\$65
APK-29	Double parked	\$40	\$65
APK-30	Parked not at a meter in a metered zone	\$30	\$55
APK-36	Parked non-commercial vehicle in CVLZ during posted hours of operation	\$255	\$355
APK-37	Parked using CVLZ without either displaying valid permit or paying metered fee	\$305	\$405
APK-38	Parked in CVLZ in excess of the maximum time	\$305	\$405

*** The Fine includes the \$5.00 Child Safety Fund Fee.**

3.0 Collection Services Requirements

The following general specifications are the minimum requirements for this Agreement:

- 3.1 Contractor services shall be a fully integrated Unpaid Parking Citation collection service that will incorporate a relational database and web development technology.
- 3.2 Contractor services, at a minimum, shall provide the ability to track and manage customer's receipts and payments. The database used for tracking the aforementioned items shall be easy to use and relational for searches, information updates, queries, and advanced reporting.
- 3.3 Contractors services shall be based on a parking collection business model and focus on common elements and relationships present in all parking operations. These elements shall be linked through financial relationships and audit trails.

4.0 Accounts

- 4.1 For all accounts, the Contractor shall implement all services as set out in the Engagement Letter including, but not limited to:
 - 4.1.1 Notice mailings
 - 4.1.2 Address research
 - 4.1.3 Phone efforts
 - 4.1.4 Notifications to Violators
 - 4.1.5 Providing management information and reports
 - 4.1.6 Providing all necessary equipment, facilities and communications
 - 4.1.7 Personnel and administrative support
 - 4.1.8 Providing all necessary software programs

- 4.1.9 Providing security, insurance
 - 4.1.10 Providing all inquiries and correspondence
 - 4.1.11 Participate in City of Houston amnesty/settlement periods as requested
 - 4.1.12 Utilize Non-Traditional methods of collection
- 4.2 The Contractor shall generate written correspondence to the Violator based on the information in the Contractor's Master File. The Contractor shall maintain copies for review by the ARA Director.

5.0 Required Processes and Standards

- 5.1 The Contractor shall maintain the following processes and work plan description at all times. Contractor acknowledges that these processes and work plan represent the minimum efforts required of the Contractor.
- 5.2 The Contractor shall provide daily updates to the Citation Management System of all methods used for collection efforts on all affected Accounts.
- 5.3 All expenses for notices, telephone calls, postage and other services performed by the Contractor shall be paid by the Contractor at its sole expense.
- 5.3.1 Violators Identification and Address Research
 - 5.3.2 The City will make an attempt to locate the Violator. However, it is the Contractor's responsibility to contract with a vendor to locate the Violator and to also pass that ownership information back to the City on a daily basis.
 - 5.3.3 Internal Search. Contractor shall search its existing database to determine if an address and telephone number of the Violator exists and if the Contractor has previously made contact.
 - 5.3.4 National Change of Address (NCOA) Submission. Prior to mailing any of the notices pursuant to this Agreement, the Contractor shall submit the proposed mail file for NCOA. If a new address is indicated by the NCOA submission, the Contractor shall mail notices to the new address obtained from NCOA. The Contractor shall provide NCOA information to the City on a daily basis directly to Parking Division Citation Management System via FTP file transfer.
 - 5.3.5 Electronic Skip-tracing. The Contractor shall submit the name of the Violator for skip-tracing to a minimum of two services that perform this service electronically. The Contractor will determine the service(s) to be used for this purpose. Once the Contractor has located the current address or current phone number of a Violator, that information is to be provided to the City on a daily basis directly to the Parking Management Citation System via FTP file transfer.
 - 5.3.6 Manual Skip-tracing. The Contractor shall differentiate between electronic skip-tracing methods as described in Subsection (5.35) above which must be performed on all Accounts and manual skip-tracing.
 - 5.3.7 Contractor shall check Department of Motor Vehicle (DMV)'s records for all assigned Accounts with an out of state license plate number from states that

provide name and address information for the registered owner of the vehicle based on the license plate.

5.4 For the following Account type listed below in 5.4.1 where the electronic skip-tracing described in subsection (5.35) above does not result in a good mailing address and/or telephone number the Contractor shall also attempt to obtain an address and/or telephone number through manual skip-tracing pursuant to the following protocol. The Contractor shall provide to the City the name, address, phone number and contact person of the in house/agencies/services that the Contractor uses to provide manual skip-tracing.

5.4.1 Contractor shall notify City when the Violator's citation is 1 to 3 years old from date of assignment and has accrued unpaid Accounts for a total amount owed in excess of \$500, and likewise, when the Violator's citation is 4 to 7 years old from date of assignment and has accrued unpaid Accounts for a total amount owed in excess of \$1000.

5.4.2 Acquisition of Telephone Numbers. In addition to the foregoing electronic and manual skip-tracing the Contractor shall also, for any Violator for which it does not have a valid telephone number, utilize methods to obtain a valid telephone number. Once a new telephone number is located and the file is updated, Contractor shall provide the new information to the City on a daily basis directly to the Citation Management System.

5.5 Mail Notices

5.5.1 Frequency of Notices. The collection program will consist of a coordinated program of mailing notices, outbound telephone calling and Non-Traditional Collection Efforts. The Contractor is expected to optimize the sequencing and timing of the collection methods to pursue collection of an Account. The Contractor, at a minimum, shall send, within seven (7) Business Days of assignment of an Account, a written notice with respect to each Alleged Violator for which there is an address (which address has not been previously returned). The Contractor shall send additional written notices where there is an address (which address has not been previously returned) when collection of the Account has not been realized within thirty (30) days of assignment of an Account.

5.6 Telephone Efforts and Contacts

5.6.1 Frequency of Telephone Efforts for Citations. The Contractor shall attempt to contact the Violator, where a valid telephone number has been obtained, not less than six (6) times on six separate days and at different times. The intention is for the Contractor to continue to locate the Violator to encourage him/her to resolve their outstanding Accounts. The Contractor upon reaching a Violator shall make every effort to resolve all outstanding Accounts. The Contractor shall complete these telephone

efforts within sixty (60) days of the date when the Contractor obtains a valid telephone number for the Violator. The Contractor shall maintain Spanish speaking staff to assist Spanish speaking customers who are not fluent in English. The Contractor shall provide an 800 phone line to assist Violators in resolving their Accounts; this phone number must be provided on all forms and correspondence.

5.6.2 Special Instructions and Constraints. Any telephone contact between Contractor and the public must be limited to Monday through Saturday between the hours of 8 a.m. and 9 p.m. of the time zone for the person being called. Contractor must provide Spanish language speaking staff to properly communicate with Spanish language speaking persons who are not fluent in English. Contractor shall provide a toll free number for all public contact. Complaints received from the public shall be maintained in a database and both the complaint and the resolution shall be provided to the ARA Director as part of the invoice process.

5.6.3 Telephone Efforts and Contact Performance Report. A performance report regarding telephone contact per Violator must be submitted.

5.7 Non-Traditional Collection Efforts

The Contractor shall provide a seasonal marketing strategy to encourage Violators to resolve their Accounts timely. Within 90 days of the First Notice the Contractor shall give ARA Director a written marketing plan with implementation timeline, proposed budget and types of media outlets. At the discretion of the ARA Director the marketing plan shall include credit bureau reporting and payment plans. ARA Director shall have the right to request Contractor to revise the marketing plan and implementation timeline at the discretion of the ARA Director. All Non-Traditional Collection Efforts will be at the sole expense of the Contractor.

5.7.1 The Contractor may utilize the following Non-Traditional Collection Efforts:

a) Time Payment Plans: Contractor shall implement an outreach program to notify the Violators who qualify for booting that they may enter into a Time Payment Plan (TPP) to be managed by the Contractor. All Accounts that qualify for the TPP offer will be approved by the ARA Director or his designee. Contractor shall notify the City, through the interface to the Parking Management System software, of Time Payment Plans so that City may suspend booting and towing enforcement against the Violator as long as the payment plan remains in good standing.

b) Credit Bureau Reporting: At the direction of the ARA Director or his designee, Contractor shall report the Violator's Account to credit agencies. Before such approved reporting, Contractor shall mail a Credit Bureau Reporting Action Letter to the Violator

warning of the impending credit bureau filing if Account is not paid within thirty (30) days.

c) Booting service pursuant to approval and direction of the ARA Director.

d) Advertising, and public awareness campaigns.

5.8 Litigation and Legal Services

The Contractor may litigate civil cases with the written consent of the City Attorney, ARA Director and Finance Director. Contractor shall not send out any notices or demand letters from attorneys, or file any legal proceedings to collect Accounts without the written consent of the City Attorney or designee. Litigation and Legal Services will be at the sole cost and expense of the Contractor.

5.9 Contractor shall provide a written staffing plan for the ARA Director to review within thirty (30) days of the Engagement Letter Effective Date. The ARA Director shall have the right to require additional staff or final approval of the staffing plan as presented.

5.9.1 The Contractor shall provide to the ARA Director one project manager who shall also be the contact person to be available for operational discussions and attend meetings to review performance. Contractor's written staffing plan shall include an organizational chart and the biographies and resumes of the project manager and key personnel.

6.0 Payment Processing

6.1 The Contractor shall instruct Violators to make payments to a post office box or other address designated by the ARA Director or to the City's Web or telephone payment portals. The City's payment transaction detail with updated transaction data shall be provided to the Contractor on a daily basis via File Transfer Protocol ("FTP") file transfer. Contractor shall update its database with this transaction detail on a daily basis. If there is any problem with this upload, the Contractor shall provide the City immediate notification no later than the end of the same Business Day. It is the Contractor's responsibility to ensure that the transaction upload information is done daily and that the collection personnel for the Contractor have online, real time access to this important information. After the Account is resolved the Violator shall not be contacted by Contractor.

6.2 The Contractor shall properly process all telephone credit card payments, electronic check payment or other forms of electronic payments used by the Contractor's telephone collection staff before the end of the same business day. All payments shall be processed and reported in a timely manner. The criteria and the process for this transaction detail shall be approved by the ARA Director and must provide real time payment information directly to the City's Citation Management System. The Contractor's personnel that are processing credit card, electronic check payment and other electronic payments, in addition to being

bonded and insured, must be checked for fraud and regularly monitored to avoid the potential problem of stealing credit cards and information pertaining to Violators. If the Contractor finds any evidence or receives any complaint from a citizen that their credit card or other personal information has been used falsely by personnel of the Contractor, the City shall be notified in writing within 24 hours that an investigation has commenced and that the personnel involved are no longer allowed to work the City of Houston account.

- 6.3 For credit card processing, Contractor shall make Violators aware of the online convenience fee. Contractor may collect credit card payments from Violators using approved credit card processing criteria and process provided by the Director. All credit card payments and information shall be provided to ARA Director or his designee by the end of the same Business Day. Contractor shall provide a separate monthly report to the ARA Director providing all payment information requested by the ARA Director. Contractor shall provide this service to the City at no cost. Contractor shall properly process and post all telephone credit card payments, electronic check payments or other forms of electronic payment.
- 6.4 Installment Payments. The City may elect to promulgate a program where Violators who cannot afford to pay the total amount of fines may be afforded an opportunity to pay the fines on their accounts through an installment payment plan. In the event the City promulgates such a plan, the Contractor will undertake reasonable efforts to implement an Installment Payment Plan and to inform Violators of its availability.
- 6.5 City shall provide Contractor with one license to ARA Department's T2Flex Software System.
- 6.6 Lockbox.

Upon request of the ARA Director, the Contractor shall provide reasonable and necessary consulting services to assist the City with the implementation of a bank lockbox for processing parking citation payments to the City. The lockbox shall be in a City approved depository bank. In addition to providing these consulting services, the Contractor will pay the City for the cost of the bank's charge for the lockbox. Contractor's payment for the lockbox shall be made monthly as the City receives invoices from Contractor for the lockbox services. The Contractor may satisfy this obligation by paying the lockbox vendor directly if the City chooses this option. Implementation of the lockbox shall begin upon approval by the ARA Director.

7.0 Contractor Service Levels

7.1 System Compatibility

The City shall create and transmit Account information to the Contractor by a mutually agreed method. As the City provides this information to the Contractor, the Contractor shall update its relational database on a daily basis with the transaction detail provided by the City. Any issues or concerns regarding this upload shall be reported to the City immediately and the Contractor shall address any technical difficulties within 48 hours.

7.1.1 The Contractor shall create and transmit to the City a FTP file on a daily basis, which shall show any updated identification on a Violator location/contact information, payments received by the Contractor in its collection efforts. The Contractor shall prepare the FTP file transfer in a standard file format to be mutually agreed by the Contractor and the ARA Director.

7.2 Master File Access

The Contractor shall provide, at no cost to the City, real time online access for up to ten persons designated by the ARA Director to Contractor's Master File of Accounts. In addition, the Contractor shall continue to provide access to information on those Accounts that have been paid or otherwise disposed for a period of a least ninety (90) days following final disposition of the Account. The Contractor shall retain all Master File information and transactions for the entire term of the Agreement.

7.2.1 The Contractor shall provide the capability for the City to access online all payment processing information as well as noticing, payment, disposition activities and the corresponding dates of such activities. Contractor shall also provide training to Parking Management Project Team on Contractor's processing system.

7.3 Management Information System

The Contractor shall perform all computer programming that is necessary to generate the electronic or written reports that are required by the Director for the execution and monitoring of Contractor's performance. The ARA Director will specify the types and specifications of performance reports. Unless otherwise provided, the ARA Director may, at his or her sole discretion, modify or enhance Contractor's reporting requirements at anytime during the Agreement term upon ten (10) Business Days advance written notice to the Contractor. Upon implementation, Contractor shall be responsible for necessary interface requirements to the City's parking management system. Specifications will be developed by Contractor and approved by ARA Director. Contractor shall pay the cost of any subsequent changes in specifications or changes in interface processes that require additional expenditure.

7.4 System Documentation

The Contractor shall provide the ARA Director with complete user documentation of all system flows, processing functions, and procedural and system controls for all payment processing activities for which the Contractor is responsible. This documentation shall, at a minimum, include:

- 7.4.1 Copy of all telephone scripts
- 7.4.2 Policy and Procedures for handling citizen complaints
- 7.4.3 Copy of Contractor's training manuals
- 7.4.4 The manner in which all processing functions are carried out
- 7.4.5 The interrelationships or interfaces between the various sub-systems
- 7.4.6 A functional organizational chart
- 7.4.7 The locations at which such functions are carried out
- 7.4.8 The timing for the carrying out of each function

- 7.5 The Contractor shall, prior to making any enhancements or modifications to the systems and procedures, receive approval from the ARA Director and forward relevant documentation within two (2) Business Days of the implementation of such enhancements or modifications.

8.0 Production Schedule

The Contractor shall prepare a detailed monthly production schedule Report and other document generation, transaction cut-off periods and notice mailing.

8.1 Project Administration

The ARA Director shall provide overall project administration.

8.2 Service Requirements

All telephone contacts made and correspondence used by the Contractor must comply with applicable federal, state and local laws. The ARA Director shall review and approve all correspondence, notices and telephone scripts prior to their use.

9.0 Collection Techniques

9.1 Success of Proposed Collection Techniques

The ARA Director reserves the right to review at any time and approve or disapprove any collection techniques that are proposed by the Contractor.

9.2 Documentation of Collection Efforts

The Contractor shall provide documentation of all collection reports and logs, and other records that are subject to review by the ARA Director for performance standards. The Contractor shall provide a flowchart description of its collection process.

10.0 Performance Reporting

The Contractor shall develop both the collection and closure rate reports and submit them to the ARA Director within thirty (30) days after the Effective Date of an Engagement Letter. These performance reports shall be submitted on a monthly basis along with the invoice. The Contractor is responsible for monitoring its own performance and tracking it against this Agreement, and evaluating its own performance monthly. Failure to produce the performance reports timely may necessitate delaying the payment of the invoice. The Contractor shall implement and operate a system for recording, monitoring and responding to all complaints and requests by the City relative to the Contractor's performance and obligations. Contractor will provide a monthly report to the ARA Director that tracks complaints and resolutions. Contractor shall develop procedures and reporting formats to track and respond to all requests and complaints in a systematic and timely fashion. The Contractor shall be required to provide monthly reports to be submitted to OCA. The requirements and information for these reports will be provided by the ARA Director.

11.0 General Provisions and Requirements

11.1 Secondary Collection Agency

The ARA Director shall have the right to review and approve the use of any support agencies, secondary (sub-contractor) collection techniques, services, or sub-contractor agencies used. The sub-Contractor collection agency used by the Contractor must be approved by the ARA Director and is subject to the same standards, limitations and restrictions as Contractor. It shall be Contractor's responsibility to assure that sub-Contractors operate within the terms of this Agreement. The Contractor shall submit monthly reports to the City on all accounts referred to sub-contractors for collection.

11.2 Customer Service

Contractor shall make citizen satisfaction a priority in providing services under this Agreement. Contractor's employees shall be trained to be customer-service oriented and to positively and politely interact with citizens when performing services. Contractor's employees shall be clean, courteous, efficient, and neat in appearance at all times and committed to offering the highest degree of service to the public. If, in the ARA Director's determination, the Contractor is not interacting in a positive and polite manner with citizens, the ARA Director may notify the Contractor of such determination and the Contractor shall immediately take all remedial steps to conform to the standards required by this Agreement.

11.3 Suspend Efforts/Holds and Recall of Accounts

The Contractor shall suspend collection efforts on any Account and take no further action if instructed to do so in writing or by appropriate electronic means

such as but not limited to e-mail, fax, by ARA Director or Designee. Collection efforts may be resumed by a subsequent written request to do so. The ARA Director or Designee also reserves the right to recall (withdraw assignment) any or all uncollected Accounts previously assigned to the Contractor without monetary charge of any kind to the City. For each Account that is suspended, withdrawn or dismissed by the parking adjudication office, the Contractor shall receive no collection fee on such Account, if the Account is suspended, withdrawn or dismissed. In addition, the City may recall or withdraw any uncollected accounts for assignment to another collections vendor. Contractor waives any rights it may have in the Accounts described in this paragraph.

11.4 Public Awareness Component

The Contractor shall develop a public awareness plan that uses the news media to inform citizens of the consequences of their failure to resolve outstanding parking citations and the various payment options. Neither party will have any obligation under this Agreement or the public awareness plan to purchase any advertising. The Contractor specifically understands and agrees that it may not release any information related to its performance under this Agreement to the news media without the prior written approval of the ARA Director. Contractor shall not issue press releases without pre-approval by both the Mayor's Communication's Office and the ARA Director.

EXHIBIT "B"

EQUAL EMPLOYMENT OPPORTUNITY

1. The contractor, subcontractor, vendor, supplier, or lessee will not discriminate against any employee or applicant for employment because of race, religion, color, sex, national origin, or age. The contractor, subcontractor, vendor, supplier, or lessee will take affirmative action to ensure that applicants are employed and that employees are treated during employment without regard to their race, religion, color, sex, national origin, or age. Such action will include, but not be limited to, the following: employment; upgrading; demotion or transfer; recruitment advertising; layoff or termination; rates of pay or other forms of compensation and selection for training, including apprenticeship. The contractor, subcontractor, vendor, supplier or lessee agrees to post in conspicuous places available to employees, and applicants for employment, notices to be provided by the City setting forth the provisions of this Equal Employment Opportunity Clause.
2. The contractor, subcontractor, vendor, supplier, or lessee states that all qualified applicants will receive consideration for employment without regard to race, religion, color, sex, national origin or age.
3. The contractor, subcontractor, vendor, supplier, or lessee will send to each labor union or representatives of workers with which it has a collective bargaining agreement or other contract or understanding, a notice to be provided by the agency contracting officer advising the said labor union or worker's representative of the contractor's and subcontractor's commitments under Section 202 of Executive Order No. 11246, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
4. The contractor, subcontractor, vendor, supplier, or lessee will comply with all provisions of Executive Order No. 11246 and the rules, regulations, and relevant orders of the Secretary of Labor or other Federal Agency responsible for enforcement of the equal employment opportunity and affirmative action provisions applicable and will likewise furnish all information and reports required by the Mayor and/or Contractor Compliance Officer(s) for purposes of investigation to ascertain and effect compliance with this program.
5. The contractor, subcontractor, vendor, supplier, or lessee will furnish all information and reports required by Executive Order No. 11246, and by the rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to all books, records, and accounts by the appropriate City and Federal Officials for purposes of investigations to ascertain compliance with such rules, regulations, and orders. Compliance reports filed at such times as directed shall contain information as to the employment practice policies, program, and work force statistics of the contractor, subcontractor, vendor, supplier, or lessee.
6. In the event of the contractor's, subcontractor's, vendor's, supplier's, or lessee's non-compliance with the non-discrimination clause of this contract or with any of such rules, regulations, or orders, this contract may be canceled, terminated, or suspended in whole or in part, and the contractor, subcontractor, vendor, supplier, or lessee may be declared ineligible for further City contracts in accordance with procedures provided in Executive Order No. 11246, and such other sanctions may be imposed and remedies invoked as provided in the said Executive Order, or by rule, regulation, or order of the Secretary of Labor, or as may otherwise be provided by law.
7. The Contractor shall include the provisions of paragraphs 1-8 of this Equal Employment Opportunity Clause in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to Section 204 of Executive Order No. 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The Contractor will take such action with respect to any subcontractor or purchase order as the contracting agency may direct as a means of enforcing such provisions including sanctions for noncompliance; provided, however, that in the event the contractor becomes involved in, or is threatened with litigation with a subcontractor or vendor as a result of such direction by the contracting agency, the Contractor may request the United States to enter into such litigation to protect the interests of the United States.

8. The Contractor shall file and shall cause his or her subcontractors, if any, to file compliance reports with the City in the form and to the extent as may be prescribed by the Mayor. Compliance reports filed at such times as directed shall contain information as to the practices, policies, programs, and employment policies and employment statistics of the Contractor and each subcontractor.

EXHIBIT "C"

MWBE SUBCONTRACT TERMS

Contractor shall ensure that all subcontracts with MWBE subcontractors and suppliers are clearly labeled "THIS CONTRACT IS SUBJECT TO BINDING ARBITRATION ACCORDING TO THE TEXAS GENERAL ARBITRATION ACT" and contain the following terms:

1. _____ (MWBE subcontractor) shall not delegate or subcontract more than 50% of the work under this subcontract to any other subcontractor or supplier without the express written consent of the City of Houston's Office of Business Opportunities Director ("the Director").
2. _____ (MWBE subcontractor) shall permit representatives of the City of Houston, at all reasonable times, to perform (1) audits of the books and records of the subcontractor, and (2) inspections of all places where work is to be undertaken in connection with this subcontract. Subcontractor shall keep such books and records available for such purpose for at least four (4) years after the end of its performance under this subcontract. Nothing in this provision shall affect the time for bringing a cause of action or the applicable statute of limitations.
3. Within five (5) business days of execution of this subcontract, Contractor (prime contractor) and Subcontractor shall designate in writing to the Director an agent for receiving any notice required or permitted to be given pursuant to Chapter 15 of the Houston City Code of Ordinances, along with the street and mailing address and phone number of such agent.
4. As concluded by the parties to this subcontract, and as evidenced by their signature hereto, any controversy between the parties involving the construction or application of any of the terms, covenants or conditions of this subcontract shall, on the written request of one party served upon the other or upon notice by Director served on both parties, be submitted to binding arbitration, under the Texas General Arbitration Act (Tex. Civ. Prac. & Rem. Code Ann., Ch. 171 -- "the Act"). Arbitration shall be conducted according to the following procedures:
 - a. Upon the decision of the Director or upon written notice to the Director from either party that a dispute has arisen, the Director shall notify all parties that they must resolve the dispute within thirty (30) days or the matter may be referred to arbitration.
 - b. If the dispute is not resolved within the time specified, any party or the Director may submit the matter to arbitration conducted by the American Arbitration Association under the rules of the American Arbitration Association, except as otherwise required by the City's contract with American Arbitration Association on file in the Office of the City's Office of Business Opportunities.

Upon submittal of the matter to arbitration each party shall pay all fees required by the American Arbitration Association and sign a form releasing the American Arbitration Association and its arbitrators from liability for decisions reached in the arbitration.

In the event the American Arbitration Association no longer administers Affirmative Action arbitration for the City, the Director shall prescribe alternate procedures as necessary to provide arbitration by neutrals in accordance with the requirements of Chapter 15 of the Houston City Code of Ordinances.

- e. All arbitrations shall be conducted in Houston, Texas, unless the parties agree to a different location.

EXHIBIT "D"
DRUG POLICY COMPLIANCE AGREEMENT

I, Michael E. Epstein CFO as an owner or officer of
(Name) (Print/Type) (Title)
Gila LLC d/b/a Municipal Services Bureau (MSB) (Contractor)
(Name of Company)

have authority to bind Contractor with respect to its bid, offer or performance of any and all contracts it may enter into with the City of Houston; and that by making this Agreement, I affirm that the Contractor is aware of and by the time the contract is awarded will be bound by and agree to designate appropriate safety impact positions for company employee positions, and to comply with the following requirements before the City issues a notice to proceed:

1. Develop and implement a written Drug Free Workplace Policy and related drug testing procedures for the Contractor that meet the criteria and requirements established by the Mayor's Amended Policy on Drug Detection and Deterrence (Mayor's Drug Policy) and the Mayor's Drug Detection and Deterrence Procedures for Contractors (Executive Order No. 1-31).
2. Obtain a facility to collect urine samples consistent with Health and Human Services (HHS) guidelines and a HHS certified drug-testing laboratory to perform the drug tests.
3. Monitor and keep records of drug tests given and the results; and upon request from the City of Houston, provide confirmation of such testing and results.

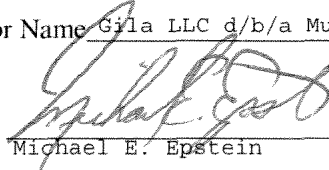
I affirm on behalf of the Contractor that full compliance with the Mayor's Drug Policy and Executive Order No. 1-31 is a material condition of the contract with the City of Houston.

I further acknowledge that falsification, failure to comply with or failure to timely submit declarations and/or documentation in compliance with the Mayor's Drug Policy and/or Executive Order No. 1-31 will be considered a breach of the contract with the City and may result in non-award or termination of the contract by the City of Houston.

Date 01/30/2013

Contractor Name Gila LLC d/b/a Municipal Services Bureau (MSB)

Signature


Michael E. Epstein

Title CFO

EXHIBIT "E"

**CONTRACTOR'S CERTIFICATION
OF NO SAFETY IMPACT POSITIONS
IN PERFORMANCE OF A CITY CONTRACT**

I, Michael E. Epstein, CFO,
(Name) (Title)

as an owner or officer of Gila LLC d/b/a Municipal Services Bureau (MSB) (Contractor)
(Name of Company)

have authority to bind the Contractor with respect to its bid, and hereby certify that Contractor has no
employee safety impact positions, as defined in §5.18 of Executive Order No. 1-31, that will be involved

in performing Collections Services.
(Project)

Contractor agrees and covenants that it shall immediately notify the City of Houston Director of Human
Resources if any safety impact positions are established to provide services in performing this City
Contract.

01/30/2013
(Date)

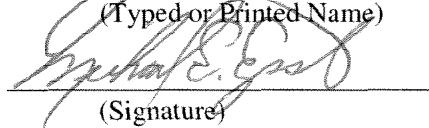
Michael E. Epstein
(Typed or Printed Name)

(Signature)
CFO
(Title)

EXHIBIT "F"
DRUG POLICY COMPLIANCE DECLARATION

I, _____ as an owner or officer of
 (Name) (Print/Type) (Title)
 _____ (Contractor or Vendor)

 (Name of Company)

have personal knowledge and full authority to make the following declarations:

This reporting period covers the preceding 6 months from _____ to _____, 200_.

_____ A written Drug Free Workplace Policy has been implemented and employees notified.
 Initials The policy meets the criteria established by the Mayor's Amended Policy on Drug Detection and Deterrence (Mayor's Policy).

_____ Written drug testing procedures have been implemented in conformity with the Mayor's
 Initials Drug Detection and Deterrence Procedures for Contractors, Executive Order No. 1-31. Employees have been notified of such procedures.

_____ Collection/testing has been conducted in compliance with federal Health and Human
 Initials Services (HHS) guidelines.

_____ Appropriate safety impact positions have been designated for employee positions
 Initials performing on the City of Houston contract. The number of employees in safety impact positions during this reporting period is.

_____ From _____ to _____ the following test has occurred
 Initials (Start date) (End date)

	Random	Reasonable Suspicion	Post Accident	Total
Number Employees Tested				
Number Employees Positive				
Percent Employees Positive				

_____ Any employee who tested positive was immediately removed from the City worksite
 Initials consistent with the Mayor's Policy and Executive Order No. 1-31.

_____ I affirm that falsification or failure to submit this declaration timely in accordance with
 Initials established guidelines will be considered a breach of contract.

I declare under penalty of perjury that the affirmations made herein and all information contained in this declaration are within my personal knowledge and are true and correct.

 (Date)

 (Typed or Printed Name)

 (Signature)

 (Title)

EXHIBIT "G"

**SAMPLE ENGAGEMENT LETTER
TO AGREEMENT FOR UNPAID PARKING CITATIONS COLLECTION SERVICES**

Date: _____

Engagement Letter #: _____

Revision #: _____

To: Contractor (Name)

This Engagement Letter Number #_____ is entered between the City of Houston ("City") and Contractor as provided in the Agreement for Unpaid Parking Citations Collection Services (the "Agreement") for the Houston Department of Administration and Regulatory Affairs ("ARA") between the Parties, effective _____(date) (Contract No. _____)

1. The terms and conditions of the Agreement are incorporated into this Engagement Letter as though set forth herein in their entirety, except as expressly modified by this Engagement Letter, including any revisions and amendments by the Parties in the attached "Attachment 1-Terms of Engagement Letter" attached hereto and incorporated herein for all purposes.
2. The City hereby assigns to Contractor the Accounts for collection described in the attached "Attachment 1" and intends to assign additional Accounts during the term of this Engagement Letter. Compensation the City will pay and other financial terms are specified in Attachment 1 which is incorporated herein for all purposes, upon the same terms and conditions, subject to allocation of sufficient funding by the City.
3. The Competitive Challenge Model by which the City intends to evaluate Contractor's performance has the features set out in "Attachment 1".
4. Additional terms and conditions are set out in "Attachment 1".
5. Scope of Services. Contractor shall provide all labor, material, and supervision necessary to perform the services described in the attached "Attachment 1".
6. The termination provisions of this Engagement Letter shall be in accordance with Sections V.B. and V.C. of the Agreement.

Please signify your acceptance of this engagement and your agreement to this Engagement Letter by signing below where indicated.

Gila LLC d/b/a Municipal Services Bureau (MSB)

[Insert name of Contractor]

Signature

Name: Michael E. Epstein

Title: CFO

Date: 01/30/2013

Signature

Director

Department of Administration & Regulatory
Affairs

ATTEST/SEAL:

CITY OF HOUSTON, TEXAS

Signed by:

City Secretary

Mayor

Date Signed: _____

APPROVED AS TO FORM:

Sr. Assistant City Attorney
L.D. File No. 0371200307001

“Attachment 1”

Terms of Engagement Letter No. _____

- A. Accounts**
- B. Model**
- C. Scope of Services**
- D. Fees**
- E. Incentives**
- F. Other Terms and Conditions**

ARA Director Initials: _____

Date: _____

Contractor Initials: M.E.E

Date: 01/30/2013